



**Montana Legislative Services Division  
Office of Research and Policy Analysis**

PO BOX 201706  
Helena, MT 59620-1706  
(406) 444-3064  
FAX (406) 444-3036

TO: Members of the Education and Local Government Interim Committee

FROM: Leanne Kurtz, Research Analyst *Leanne*

DATE: August 29, 2014

RE: Local incident management funding

At your June meeting, Captain Patrick Lonergan from the Bozeman Fire Department and Chief Rich Cowger from Columbus Fire and Rescue and the Montana State Fire Chiefs' Association brought to your attention a policy issue regarding local incident management for extended events that occur prior to a formal declaration of a disaster or emergency. Incident management teams made up of local and state officials have been established for deployment to incidents around the state, but no funding mechanism exists for these teams to operate.

After considering the testimony, you directed staff to work with Captain Lonergan and Chief Cowger to develop options for the committee to consider at its September meeting. Although you did not specifically request that a bill be drafted, given the time constraints and the fact that September's meeting is ELG's final meeting of the interim, staff thought it would be appropriate to provide the committee with a potential solution to the problem in the form of a bill draft that the committee may choose to request, amend, or reject or that a member of the committee may wish to pursue.

To review, Captain Lonergan and Chief Cowger provided the following information.

- Aggressive and timely local response to events can prevent them from worsening and necessitating disaster or emergency declarations.
- Most local response agencies are able to handle routine and short-term incidents, but extended events require more complex incident management and result in increased costs.
- Costs involved in extended incident management have at times precluded proper management.
- The Montana State Emergency Response Commission, which is a statutorily-authorized entity administratively attached to the Department of Military Affairs, has created all-hazard incident management assistance teams. The teams consist of state and local personnel with specialized training in incident command and management.
- Training for the all-hazard incident management teams has been funded primarily by grants.

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Exhibit 6

- Successful partnerships exist between local and state entities for response to hazardous material incidents, search and rescue events, and wildland fire events, but "for incidents outside of wildfire, there is not a mechanism short of a local disaster declaration with 2 mill emergency assessment followed by a governor's declaration in order to offset the costs for proper incident management."
- Section 10-3-310, MCA, authorizes the Governor to expend general fund money up to \$100,000 per biennium, not to exceed \$10,000 per incident, for incident management costs incurred by the state. The section prohibits the use of that expenditure authority to reimburse local governments or tribal governments for incident response costs incurred by those entities.

The enclosed draft:

1. defines "all-hazard incident management assistance team";
2. provides that the Governor's incident management expenditure authority may be used for incident response costs of the state and for incident response costs incurred by an all-hazard incident management assistance team; and
3. clarifies that the State Emergency Response Commission shall establish the all-hazard incident management assistance teams and promulgate rules and procedures for deployment of the teams and cost recovery.

The draft has been reviewed by Captain Lonergan, Chief Cowger, Harold Blattie with the Montana Association of Counties, Steve Knecht with the state Disaster and Emergency Services Division, and other interested individuals.

Feel free to contact me at 444-3593 or at [lekurtz@mt.gov](mailto:lekurtz@mt.gov) if you have questions about the all-hazard teams or the bill draft prior to your meeting later this month.

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\*\*\*\* Bill No. \*\*\*\*

Introduced By \*\*\*\*\*

By Request of the \*\*\*\*\*

A Bill for an Act entitled: "An Act providing for the establishment of and funding for deployment of all-hazard incident management assistance teams; allowing for costs incurred by a team to be paid using incident response expenditure authority; and amending sections 10-3-103, 10-3-310, and 10-3-1204, MCA."

Be it enacted by the Legislature of the State of Montana:

**Section 1.** Section 10-3-103, MCA, is amended to read:

**"10-3-103. Definitions.** As used in parts 1 through 4 of this chapter, the following definitions apply:

(1) "All-hazard incident management assistance team" means a team that includes any combination of personnel representing local, state, or tribal entities that has been established by the state emergency response commission provided for in 10-3-1204 for the purpose of local incident management intended to mitigate the impacts of an incident prior to a disaster or emergency declaration.

(1)(2) "Civil defense" means the nuclear preparedness functions and responsibilities of disaster and emergency services.

(2)(3) "Department" means the department of military

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affairs.

~~(3)~~(4) "Disaster" means the occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or artificial cause, including tornadoes, windstorms, snowstorms, wind-driven water, high water, floods, wave action, earthquakes, landslides, mudslides, volcanic action, fires, explosions, air or water contamination requiring emergency action to avert danger or damage, blight, droughts, infestations, riots, sabotage, hostile military or paramilitary action, disruption of state services, accidents involving radiation byproducts or other hazardous materials, outbreak of disease, bioterrorism, or incidents involving weapons of mass destruction.

~~(4)~~(5) "Disaster and emergency services" means the preparation for and the carrying out of disaster and emergency functions and responsibilities, other than those for which military forces or other state or federal agencies are primarily responsible, to mitigate, prepare for, respond to, and recover from injury and damage resulting from emergencies or disasters.

~~(5)~~(6) "Disaster medicine" means the provision of patient care by a health care provider during a disaster or emergency when the number of patients exceeds the capacity of normal medical resources, facilities, and personnel. Disaster medicine may include implementing patient care guidelines that depart from recognized nondisaster triage and standard treatment patient care guidelines determining the order of evacuation and treatment of persons needing care.

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~~(6)~~(7) "Division" means the division of disaster and emergency services of the department.

~~(7)~~(8) "Emergency" means the imminent threat of a disaster causing immediate peril to life or property that timely action can avert or minimize.

~~(8)~~(9) (a) "Incident" means an event or occurrence, caused by either an individual or by natural phenomena, requiring action by disaster and emergency services personnel to prevent or minimize loss of life or damage to property or natural resources. The term includes the imminent threat of an emergency.

(b) The term does not include a state of emergency or disaster declared by the governor pursuant to 10-3-302 or 10-3-303.

~~(9)~~(10) "Political subdivision" means any county, city, town, or other legally constituted unit of local government in this state.

~~(10)~~(11) "Principal executive officer" means the mayor, presiding officer of the county commissioners, or other chief executive officer of a political subdivision.

~~(11)~~(12) "Temporary housing" means unoccupied habitable dwellings, suitable rental housing, mobile homes, or other readily fabricated dwellings.

~~(12)~~(13) "Tribal government" means the government of a federally recognized Indian tribe within the state of Montana.

~~(13)~~(14) "Volunteer professional" means an individual with an active, unrestricted license to practice a profession under the provisions of Title 37, Title 50, or the laws of another

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state."

{ Internal References to 10-3-103:

|           |           |           |             |
|-----------|-----------|-----------|-------------|
| 7-33-2108 | 7-33-2405 | 7-33-4112 | 10-3-302    |
| 10-3-311  | 10-3-903  | 10-3-903  | 10-3-906    |
| 10-3-906  | 10-3-907  | 37-73-216 | 39-51-301 } |

**Section 2.** Section 10-3-310, MCA, is amended to read:

**"10-3-310. Incident response -- authority -- appropriation -- expenditures -- recovery -- rules.** (1) The governor may by executive order upon request of the local governing body, its authorized agent, or a tribal government activate that part of the state disaster and emergency plan pertaining to incident response. The order may be issued for any year, for any part of a year, or upon occurrence of an incident.

(2) Upon approval of an executive order pursuant to this section:

(a) that part of the state disaster and emergency plan pertaining to incidents becomes effective;

(b) the division may use any of the resources usable by the division during a state of emergency or disaster to respond to the incident; and

(c) there is statutorily appropriated, as provided in 17-7-502, to the office of the governor, and the governor is authorized to expend from the general fund an amount not to exceed \$10,000 per incident and not to exceed \$100,000 for incidents in a biennium.

(3) The governor may authorize the incurring of liabilities and expenses to be paid as other claims against the state from

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the general fund, in the amount necessary, upon activation of the incident response portion of the state disaster and emergency plan. Money appropriated by this section may be used only for incident response costs of the state and ~~may not be used to reimburse a local government or tribal government for incident response costs incurred by that local government or tribal government~~ incident response costs incurred by an all-hazard incident management assistance team established under 10-3-1204.

(4) In the event of recovery of money expended pursuant to this section, the spending authority must be reinstated to the level reflecting the recovery.

(5) The department may adopt rules to implement this section."

{ Internal References to 10-3-310:

10-3-312      10-3-312      17-7-502      76-13-150 }

**Section 3.** Section 10-3-1204, MCA, is amended to read:

**"10-3-1204. State emergency response commission -- members -- duties -- establishment of incident response and incident management teams.** (1) There is a state emergency response commission that is attached to the department for administrative purposes. The commission consists of 29 members appointed by the governor. The commission must include representatives of the national guard, the air force, the department of environmental quality, the division, the department of transportation, the department of justice, the department of natural resources and conservation, the department of public health and human services,

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a fire service association, the fire services training school, the emergency medical services and trauma systems section of the public health and safety division in the department of public health and human services, the department of fish, wildlife, and parks, the department of agriculture, Montana hospitals, an emergency medical services association, a law enforcement association, an emergency management association, a public health-related association, a trucking association, a utility company doing business in Montana, a railroad company doing business in Montana, Montana's petroleum industry, Montana's insurance industry, the university system, a tribal emergency response commission, the national weather service, the Montana association of counties, the Montana league of cities and towns, and the office of the governor. At least one representative must be a member of a local emergency planning committee. Members of the commission serve terms of 4 years and may be reappointed. The members shall serve without compensation. The governor shall appoint two presiding officers from the appointees, who shall act as copresiding officers.

(2) The commission shall implement the provisions of this part. The commission may create and implement a state hazardous material incident response team to respond to hazardous material incidents. The members of the team must be certified in accordance with the plan.

(3) The commission may enter into written agreements with each entity or person providing equipment or services to the state hazardous material incident response team.



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(4) The commission or its designee may direct that the state hazardous material incident response team be available and respond, when requested by a local emergency response authority, to hazardous material incidents according to the plan.

(5) The commission may contract with persons to meet state emergency response needs for the state hazardous material incident response team.

(6) The commission may advise, consult, cooperate, and enter into agreements with agencies of the state and federal government, other states and their state agencies, cities, counties, tribal governments, and other persons concerned with emergency response and matters relating to and arising out of incidents.

(7) The commission may encourage, participate in, or conduct studies, investigations, training, research, and demonstrations for and with the state hazardous material incident response team, local emergency responders, and other interested persons.

(8) The commission may collect and disseminate information relating to emergency response to incidents.

(9) The commission may accept and administer grants, gifts, or other funds, conditional or otherwise, made to the state for emergency response activities provided for in this part.

(10) The commission may prepare, coordinate, implement, and update a plan that coordinates state and local emergency authorities to respond to incidents within the state. The plan must be consistent with this part. All state emergency response

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responsibilities relating to an incident must be defined by the plan.

(11) The commission has the powers and duties of a state emergency response commission under the federal Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. 11001, et seq., except that the division shall oversee the creation, annual local review, and exercise and revision of the local emergency operations plan as provided by state law.

(12) The commission shall promulgate rules and procedures limited to cost recovery procedures, certification of state hazardous material incident response team members and all-hazard incident management assistance team members, and deployment of the state hazardous material incident response team and all-hazard incident management assistance teams, which must be a part of the plan.

(13) The commission shall act as an all-hazard advisory board to the division by:

(a) assisting the division in carrying out its responsibilities by providing the division with recommendations on issues pertaining to all-hazard emergency management; ~~and~~

(b) authorizing the establishment of subcommittees to develop and provide the recommendations called for in subsection

(13) (a); and

(c) establishing all-hazard incident management assistance teams as defined in 10-3-103.

(14) The commission shall appoint the members of the Montana intrastate mutual aid committee provided for in 10-3-904.

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(15) All state agencies and institutions shall cooperate with the commission in the commission's efforts to carry out its duties under this part."

{ Internal References to 10-3-1204:  
10-3-904      10-3-1203 }

- END -

{ Name :      Leanne M. Kurtz  
Title :      Research Analyst  
Agency:      Legislative Services Division  
Phone :      444-3064  
E-Mail:      lekurtz@mt.gov }

